

REMARKS

A. Outstanding Action

Claims 1-9, 11-13, 15-19 and 21-30 were rejected under 35 U.S.C. 102(b) as being anticipated by Nigro 3,601,290.

B. Status Of Claims

Claims 1-36 were pending in the application prior to the instant Amendment.

Claims 10, 14 and 30-36 have been canceled without prejudice or disclaimer as being directed to a non-elected species.

Claims 1-9, 11-13, 15-19 and 21-30 have been canceled without prejudice or disclaimer.

Claims 37-43 have been added and are now pending.

C. Citation of Prior Art

Applicant is enclosing a citation of prior art (PTO/SB/08A) for consideration by the examiner. Since the application was filed after June 30, 2003, only copies of foreign patent and publication are being forwarded under separate cover.

D. Amendments To The Abstract

The Abstract of the Disclosure has been amended in accordance with the enclosed marked up copy. The amendment to the Abstract of the Disclosure has been made to make the Abstract of the Disclosure commensurate with the newly presented claims 37-43.

E. Amendments To The Specification

The specification has been amended in accordance with the enclosed marked up copy. The amendments to the specification have been made for the purpose of clarity only and no new matter has been added to the application.

F. Drawings

The drawings have been corrected to be consistent with the specification. Annotated copies of the drawings are submitted herewith. Formal drawings are being submitted herewith.

G. Interview

Applicant and the attorney for applicant thank the Examiner for his kind and courteous interview of June 28, 2007. At the aforementioned interview, the attorney for applicant demonstrated the operation of samples of the invention.

Thereafter, the attorney for applicant submitted proposed claim 37 in an effort to more particularly point out and distinctly claim the subject matter of the invention. The examiner's Interview Summary Report indicated the proposed claim 37 discussed during the aforementioned interview "reads over the prior art upon further review and update of search proposed claims would be allowed".

H. New Independent Claim 37

Applicant is resubmitting new independent claim 37 for further consideration by the examiner. The new independent claim 37 is identical to the proposed claim 37 discussed during the aforementioned interview except for the last element of the new independent claim 37. It is believed

the last element of the new independent claim 37 is more accurate than the proposed claim 37 discussed during the aforementioned interview. The unitary actuator button is inhibited from pivoting the nozzle button when the actuator button is in the locked rotational position. However, the unitary actuator button is always rotatable between the unlocked and the locked rotational positions.

It is respectfully submitted that independent claim 37 is now in condition for allowance.

I. New Independent Claim 38

Applicant is submitting new independent claim 38 for further consideration by the examiner. New independent claim 38 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 38 set forth the unitary actuator button being formed from a unitary substantially rigid material for enabling the entirety of the actuator button to move as a unit relative to the base. Furthermore, the rigid sidewall and the rigid top actuating surface form a continuous surface with an actuator button orifice defined in said sidewall of said actuator button. In addition, the rigid sidewall of the actuator button covers the terminal orifice of said nozzle when said actuator button is rotated into said locked rotational position.

It is respectfully submitted that independent claim 38 is now in condition for allowance.

J. New Independent Claim 39

Applicant is submitting new independent claim 39 for further consideration by the examiner. New independent claim 39 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 39 set forth the base having an outer ring and an inner ring defined about an axis of symmetry of the base forming an annular void therebetween. The unitary actuator button is movable within the annular void between the outer ring and the inner ring

of the base for engaging and pivoting the nozzle button to actuate the aerosol valve for dispensing aerosol product from the terminal orifice and through the actuator button orifice defined in the sidewall of the actuator button when the actuator button is in the unlocked rotational position.

It is respectfully submitted that independent claim 39 is now in condition for allowance.

K. New Independent Claim 40

Applicant is submitting new independent claim 40 for further consideration by the examiner. New independent claim 40 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 40 set forth the base having an outer ring and an inner ring interconnected by a plurality of radial ribs defined about an axis of symmetry of the base forming an annular void therebetween. A portion of the rigid sidewall of the unitary actuator button extends into the annular void between the outer ring and the inner ring of the base. The unitary actuator button is movable within the annular void between the outer ring and the inner ring of the base for engaging and pivoting the nozzle button to actuate the aerosol valve

It is respectfully submitted that independent claim 40 is now in condition for allowance.

L. New Independent Claim 41

Applicant is submitting new independent claim 41 for further consideration by the examiner. New independent claim 41 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 41 set forth a bridge extending radially inwardly toward an axis of symmetry from a portion of the base. The unitary actuator button being tiltable about said bridge of said base for actuating the aerosol valve to dispense the aerosol product from the aerosol container through said terminal orifice when said actuator button is rotated into said unlocked rotational position.

It is respectfully submitted that independent claim 41 is now in condition for allowance.

M. New Independent Claim 42

Applicant is submitting new independent claim 42 for further consideration by the examiner. New independent claim 42 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 42 set forth a bridge extending radially inwardly toward an axis of symmetry from a portion of the base. The unitary actuator button comprising a rigid sidewall supporting a rigid top actuating surface and being formed from a unitary substantially rigid material for enabling the entirety of the actuator button to move as a unit relative to the base. The entirety of the unitary actuator button being tiltable relative to the base for actuating the aerosol valve for dispensing the aerosol product from the aerosol container when the actuator button is rotated into the unlocked rotational position.

It is respectfully submitted that independent claim 42 is now in condition for allowance.

N. New Independent Claim 43

Applicant is submitting new independent claim 43 for further consideration by the examiner. New independent claim 43 includes all of the limitation of claim 37 with additional recited structure. More specifically, new independent claim 43 set forth a base having an axis of symmetry of the base with the base having an outer ring and an inner ring defined about the axis of symmetry of the base forming an annular void therebetween. A bridge is located in a portion of the void. A portion of the rigid sidewall of the unitary actuator button extends into the annular void for engaging with the bridge. The entirety of the unitary actuator button is tiltable about the bridge of the base upon depression of the top actuating surface for actuating the aerosol valve to dispense the aerosol product from the aerosol

container through the terminal orifice when the actuator button is rotated into the unlocked rotational position.

It is respectfully submitted that independent claim 42 is now in condition for allowance.

For all the foregoing reasons, it is respectfully submitted independent claims 37-43 are in condition for allowance. Favorable reconsideration and allowance of the independent claim 37-43 is respectfully requested.

The prior art made of record but not relied upon has been reviewed and appears to be less pertinent to the claimed subject matter than the references cited by the Examiner. The remaining references do not teach nor suggest the structure set forth in the proposed claim

O. Request For Extension of Time

Enclosed is a Request for Extension of Time to respond to the outstanding office action. Please charge Deposit Account No. 06-2120 for the fees for the Extension of Time.

P. Precautionary Request for an Extension of Time

In the event the present filing is not timely filed, applicant request an Extension of Time for an appropriate period of time. Please charge Deposit Account No. 06-2120 for the fees for any Extension of Time.

Q. Additional Fees

Please charge Deposit Account No. 06-2120 for the fees for any additional claims, an Extension of Time, Citation of Prior Art, Petitions, Terminal Disclaimers or any other fee arising out of this correspondence.

Applicant verily believes that all claims are now in condition for allowance and favorable action is respectfully requested. The undersigned attorney of record cordially invites any telephonic communications from the examiner that may assist the examiner in the examination and to expedite the allowance and issuance of Letters Patent on the subject invention.

Respectfully submitted,

FRIJOUF, RUST & PYLE, P.A.



Robert F. Frijouf, Reg. No. 26,546
201 East Davis Blvd Boulevard
Tampa, Florida 33606
813.254.5100 phone
813.254.5400 facsimile
frijouf@frijouf.com email
Attorneys for Applicant

Deposit Account

Please charge our account any deficiency in fees or credit any over payment arising out of this correspondence to Deposit Account No. 06-2120.

Certificate of Mailing

It is hereby certified that the foregoing correspondence and fee is being placed in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 and mailed by first class mail, postage prepaid, this 30th day of July, 2007.

